

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Jammadríteal Dunn

v.

Civil No. 08-cv-178-PB

Warden, Northern New Hampshire
Correctional Facility

O R D E R

Before the court is Jammadríteal Dunn's petition for a writ of habeas corpus (document no. 1), filed pursuant to 28 U.S.C. § 2254. The matter initially came before me for preliminary review to determine whether or not the claims raised in the petition are facially valid and may proceed. See Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts ("§ 2254 Rules") (requiring initial review to determine whether the petition is facially valid and may be served); see also United States District Court District of New Hampshire Local Rule ("LR") 4.3(d) (authorizing magistrate judge to preliminarily review pro se prisoner filings pursuant to 28 U.S.C. § 1915A).

I have previously recommended that one of Dunn's three claims be dismissed as not cognizable in a federal habeas petition (document no. 3). That recommendation was approved

without objection on July 18, 2008 (document no. 7). I also ordered Dunn to amend his petition to demonstrate exhaustion of his two remaining claims (document no. 4). Dunn has now filed a motion to amend his petition (document no. 5). That motion is granted.

Dunn's motion to amend demonstrates that the two claims in the habeas petition have been fully exhausted and may be considered at this time. See 28 U.S.C. § 2254(a) & (b). Accordingly, I order the petition to be served on respondent. See § 2254 Rule 4.

Respondent shall file an answer or other pleading in response to the allegations made therein. See id. (requiring reviewing judge to order a response to the petition). The Clerk's office is directed to serve the New Hampshire Office of the Attorney General, as provided in the Agreement On Acceptance Of Service, copies of this Order and the habeas petition (document no. 1), as well as my previous Report and Recommendation and Order (document nos. 3 & 4) and Dunn's motion to amend (document no. 5).

Respondent shall answer or otherwise plead within thirty (30) days of the date of this Order. The answer shall comply

with the requirements of § 2254 Rule 5 (setting forth contents of the answer).

Upon receipt of the response, the Court will determine whether a hearing is warranted. See § 2254 Rule 8 (providing circumstances under which a hearing is appropriate).

Petitioner is referred to Fed. R. Civ. P. 5, which requires that every pleading, written motion, notice, and similar paper, after the petition, shall be served on all parties. Such service is to be made by mailing the material to the parties' attorneys.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: September 24, 2008

cc: Jammadríteal Dunn, pro se